

TOWN OF BLOOMING GROVE

ZONING BOARD OF APPEALS

APPLICATION

Meetings are held the second Wednesday of every month at 7:30 p.m. Depending on the number of applications before the Board, workshops can be held on Monday evening or right before the Wednesday meeting. Please check the agenda published the week before the public meeting in the Times Herald Record, Orange County Post and on the Town's website: townofbloomingtonny.com

To appear on the agenda for any given month, applications, applicable fees and required paperwork must be submitted by the 15th of the previous month.

Any questions, please call Carol LaRocca, Zoning Board clerk, at (845) 496-7011 ex 725

ZBA APPLICATION PROCEDURES

- 1. The ZBA clerk will publish a notice of public hearing in the Orange County Post at least five (5) days prior to the hearing.**
- 2. The ZBA clerk will provide a mailing list (generated by the Assessor's office) of all property owners within 500 feet (Mountain Lodge area – 200 feet, cell towers & large scale solar – 1,000 feet) of the outer boundaries of the subject parcel and a legal Notice of Hearing. The applicant must address, insert Notice, stamp and seal an envelope for every property owner on the mailing list. Envelopes must be submitted to the ZBA clerk no later than 12 days before the scheduled meeting date. The ZBA clerk will verify that there is an addressed envelope for every property owner on the mailing list and bring to Post Office for mailing (post- marked 5 – 10 days prior to scheduled meeting date). Upon completion, ZBA clerk will get an Affidavit of Mailing notarized.**
- 3. The Orange County Planning Department must review all projects that meet the requirements of Section 239 of the NYS General Municipal Law prior to a decision by the Board if the real property is within five hundred (500) feet of any of the following:**
 - a. The boundary of any city, village or town;
 - b. The boundary of any existing or proposed county or state park or any other recreation are;
 - c. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
 - d. The existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines;
 - e. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
 - f. The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the NYS Agriculture and Markets Law.
- 4. All application fees must be paid upon application submission. All engineering, legal and publishing fees incurred by the Board with respect to this application must be paid by the applicant and shall be charged back accordingly.
(Attached Section 217-3 Applicability)**

Chapter 217. Taxpayer Protection

§ 217-3. Applicability.

Any and all such specific and nongeneral costs or expenses incurred by the Town in reviewing any application or petition for any building permit, zone change, special permit, license, franchise agreement, site plan, subdivision, variance, interpretation or any amendments to any approved map or tax map or text of the Town Code, as well as any other land use-related submissions to the Town Board, the Zoning Board of Appeals or Planning Board or any other land use board, entity or committee, or otherwise involving threatened or pending litigation enforcing the land use-related rights of the Town regarding a specific applicant or property owner which require the use or employment of Town Counsel, Special Legal Counsel, Bond Counsel, Transactional Counsel or other legal advice or representation, planning consultants, zoning consultants, engineers, experts, accountants, appraisers or other professionals or persons that may be deemed reasonably necessary by the Town to review, act upon or otherwise provide advice on any such land use-related matter shall be charged to and paid solely by the applicant or petitioner, as well as the property owner involved or other person seeking land use-related relief or otherwise applying to the Town that makes such specific and nongeneral action or review by the Town appropriate or necessary as determined by the Town Board. Any such costs paid or incurred by the Town that are reasonable and customary in the County of Orange regarding the foregoing shall be charged to and paid by the applicant, as well as the property owner involved provided the applicant, as well as the property owner involved, is seeking a benefit or other relief or approval from the Town. All of said costs and necessary expenditures, but not expenditures for the convenience of a Board in fulfillment of its own decision-making responsibilities, shall be so paid by said applicant and landowner involved in any such land use application. Said total costs shall be reasonable in amount and shall not exceed 5% of the cost of the fair market value of the estimated cost of construction or the infrastructure and other site improvements involved in said application or land use-related matter. The payment of such costs shall be deducted from an escrow account, to be established for such application or land use matter in amount determined by the Town Board in accordance with the Town's fee schedule, or as otherwise determined by Town Board resolution. Such escrow account must be maintained in an amount sufficient to pay such fees or costs at the time they are incurred and must be replenished by the applicant or landowner as directed by the Town.

APPLICATION TO THE ZONING BOARD OF APPEALS

Date Received: _____

Public Hearing Date: _____

Type: Area Variance _____ Use Variance _____ Interpretation _____ Other _____

I (We) _____ presently residing at
Applicant's Name

Address _____

Phone No. _____

hereby make application to the Zoning Board of Appeals for the Town of Blooming Grove as follows:

STATEMENT OF LOCATION AND OWNERSHIP

1. Subject property is defined as Tax Map Section _____, Block _____, Lot _____
Street Address _____ Zoning District _____
2. Present record owner of subject property is:
Name(s) _____
Mailing Address _____
3. Is there any improvement (building) on the property? _____
4. If so, when constructed? _____
5. When did the owner acquire this property? _____

If applicant is not the record owner of subject property, a proxy (attached) signed by record owner and notarized, must be submitted as an addendum to this application.

6. This application arises from:

_____ Disapproval by the Town Building Inspector of a building permit application

_____ Referral by the Town Planning Board of an application to that Board

_____ Other _____

RELIEF REQUESTED

7. Description of variance or other relief sought: _____

8. Section and subsection number of the applicable Zoning Law: _____

REQUIRED DOCUMENTATION

9. The following items must be submitted with this application:

- _____ Copy of Deed
- _____ Plot plan and/or lot location diagram – seven (7) copies
- _____ Completed Application - seven (7) copies
- _____ Completed Environmental Assessment Form (if applicable)
- _____ \$150.00 Short Form _____ \$400.00 Long Form www.dec.nv.gov/permits/6191.html
- _____ Executed General Municipal Law 809 Affidavit
- _____ Proxy (if applicable)
- _____ Application fee: Check made payable to “Town of Blooming Grove”:
- _____ \$300.00 Area Variance or Interpretation (circle one)
- _____ \$400.00 Small-Scale Solar
- _____ \$500.00 Use Variance
- _____ \$750.00 Large-Scale Solar or Special Permit (Filling/Grading, Timber Harvesting) (circle one)
- _____ Escrow: Separate check made payable to the “Town of Blooming Grove”:
- _____ \$350.00 Area/Interpretation/Use
- _____ \$1,500.00 Small-Scale Solar – replenish when balance under \$500
- _____ \$2,500.00 Large-Scale Solar/Special Permit – replenish when balance under \$750
- _____ \$3,000.00 Cell Tower – replenish when balance under \$1,500

GROUNDNS FOR RELIEF

10. AREA VARIANCE – Application must meet the requirements of Town Law Section 267-b(3) and complete the following:

- a. Explain why the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties:

- b. Explain why the benefits sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance:

- c. Explain why the requested variance is not substantial. For example, state the mathematical amount of the variance sought, such as requirement 150'; applicant proposes 140'; variance = 10', and list any factors mitigating impact of variance on neighboring properties:

- d. Explain why grant of the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:

- e. Explain briefly how the difficulty imposed upon the applicant by the zoning regulations arose, specifically stating whether or not the situation was self created:

11. USE VARIANCE – Applicants must meet the requirements of Town Law Section 267-b(2) and complete the following:

- a. State why applicable zoning regulations deprive the applicant of all or substantially all economic use or benefit from the property and submit to the Board supporting financial evidence establishing such deprivation.

- b. State why the hardship imposed by the zoning regulations is unique to the property and does not apply to a substantial portion of the zoning district or neighborhood.

- c. State why a grant of the variance would not alter the essential character of the neighborhood.

- d. Explain briefly how the hardship imposed by the applicable zoning regulations arose, stating specifically whether or not the situation was self created.

12. **Interpretation of the Ordinance & other Relief** – Briefly describe the conditions and evidence which you plan to present to the Board:

I do hereby swear or affirm under penalties of perjury that all of the information that I have provided in this application is true to the best of my knowledge and belief.

Sworn to before me this ____ day
Of _____, 20__

Applicant Signature

Notary Public

Applicant Signature

**GENERAL MUNICIPAL LAW 809
AFFIDAVIT**

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, _____, residing at _____

_____ Do hereby swear and affirm the following to be true under penalties of perjury:

1. For the purpose of this affidavit, I acknowledge and affirm that an officer or employee of the Town shall be deemed to have an interest in the application when she or he, his or her spouse, or their brothers, sisters, children, grandchildren or the spouse of any of them:
 - A. is the applicant, or
 - B. is an officer, director, partner or employee of the applicant, or
 - C. legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
 - D. is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of this application.
2. The name and residence address of all officers or employees of the Town of Blooming Grove known by me to have any interest in the applicant on this application to the Planning Board of the Town of Blooming Grove are as follows:

<u>NAME</u> (If none, state None)	<u>ADDRESS</u>	<u>NATURE OF INTEREST</u>
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Sworn to before me this _____ day
of _____, 20____

Signed: _____

Notary Public

PROXY

STATE OF NEW YORK)
) SS:
COUNTY OF ORANGE)

I, _____, as a record owner of the property located at

Identified upon the
Town of Blooming Grove Tax Map Section _____, Block _____, Lot _____,
do hereby designate _____ to act as my
representative in any and all proceedings before the Town of Blooming Grove
Zoning Board of Appeals relating to the application for _____

Date

Owner's Signature

Sworn to before me this _____ day
of _____, 20____

Notary Public

NY CLS Town § 267-b

1. Orders, requirements, decisions, interpretations, determinations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. Use variances.
 - (a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.
 - (b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
 - (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) that the alleged hardship has not been self-created.
 - (c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. **Area variances.**

- (a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.
 - (b) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (3) whether the requested area variance is substantial;
 - (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
 - (c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.